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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/535,725

05/20/2005

Gabor Felber

81,617

7806

29089

7590

04/03/2008

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EXAMINER

COONEY, JOHN M

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

04/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/535,725	Applicant(s) FELBER ET AL.	
	Examiner John Cooney	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20050520</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims are confusing as to intent because it can not be determined what compound is intended to be designated by the language "(2-propanol, (1, 1'-((3-(dimethylamino)propyl)imino)bis-". It is not agreed that "(2-propanol, (1, 1'-((3-(dimethylamino)propyl)imino)bis-" corresponds properly with N-(3-dimethylaminopropyl)-N,N-diisopropanolamine (commercially available as JEFFCAT DPA from Huntsman Corp.), and appropriate correction is required.

Claims 4 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4 and 13, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 4 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims are confusing because claims must be one sentence only. Further, it is not seen what additional limitation this second sentence adds to the claims, and, accordingly, it can not be determined what materials are intended to be included or excluded by this additional sentence.

Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims are confusing as to intent because the language of the claims are laid out as if to be defining qualities associated with the product formed while the qualities being defined are associated with the polyols used in the manufacture of polyurethane foam formed. These product claims being laid out in an improper product-by-process format renders the claims confusing as to intent because it can not be determined what products and materials used in the making of the product are intended to be included or excluded from the claimed products, nor is it seen evident that the prescribed degrees of unsaturation are retained in the final product formed.

Claims 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims are confusing as to intent because they are processes which depend from a product claims, and it can not be determined if a product is intended to be further defined or a process is intended to be set forth.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-10, and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinkelaar et al.(5,668,191).

Kinkelaar et al. discloses preparations of polyurethane foams formed by mixing and reacting (1.) polyols having calculated molecular weights meeting those claimed and degrees of unsaturation as claimed, (2.) isocyanates as claimed, (3.)blowing agents as claimed in amounts corresponding to those claimed, and (4.) reactive catalysts (see the entire document).

Claims 1,3-10, and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al.(6,008,263).

Thompson et al. discloses preparations of polyurethane foams formed by mixing and reacting (1.) polyols having calculated molecular weights meeting those claimed and degrees of unsaturation as claimed, (2.) isocyanates as claimed, (3.) blowing agents as claimed, including water and methylene chloride, in amounts corresponding to those claimed, and (4.) reactive catalysts (see the entire document).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinkelaar et al. as applied to claims 1, 3-10, 12-15 above, and further in view of Munzenberger et al.(6,706,774).

Kinkelaar et al. differs from claims 2 and 11 in that the claimed catalysts are not exemplified. However, Munzenberger et al. discloses the JEFFCAT catalysts, such as JEFFCAT ZF10, to be suitable catalysts in polyurethane foam preparations for the reaction between the polyol and the isocyanate (see column 3 lines 57-64 & column 5 line 20, as well as, the entire document). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the catalysts of Munzenberger et

al. in the preparations of Kinkelaar et al. for the purpose of providing the catalyzation of the isocyanate with polyol reactive effect in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DE 100 09 649 is cited for its disclosure of JEFFCAT DPA in foam operations. Kaplan et al. is cited for its disclosure of JEFFCAT ZR-70 in foam operations. Humbert et al. is cited for its disclosure of the availability of various JEFFCAT catalyst and their usefulness in foam operations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Cooney/

Primary Examiner, Art Unit 1796